

1 THE HONORABLE JOHN C. COUGHENOUR

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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 ERIN HEATHER AUE,

10 Plaintiff,

11 v.

12 COMMISSIONER OF SOCIAL SECURITY,

13 Defendant.
14

CASE NO. C17-5704-JCC

ORDER

15 This matter comes before the Court on Plaintiff's unopposed motion for attorney fees
16 pursuant to 42 U.S.C. § 406(b) (Dkt. No. 19). Plaintiff's attorney has requested \$4,980.00 for her
17 representation of Plaintiff in federal court. (*Id.* at 1.) Defendant does not object to Plaintiff's
18 request. (Dtk. No. 25 at 1.) For the foregoing reasons, the Court GRANTS the motion.

19 Under § 406(b), a court entering judgment in favor of a social security disability
20 insurance claimant who was represented by an attorney "may determine and allow as part of its
21 judgment a reasonable fee for such representation, not in excess of 25 percent of the total of the
22 past-due benefits to which the claimant is entitled by reason of such judgment." In determining
23 whether to grant a § 406(b) fee request, a court must first ensure that the requested fee is
24 consistent with the contract between the plaintiff and their attorney. *See Crawford v. Astrue*, 586
25 F.3d 1142, 1148 (9th Cir. 2009) (citing *Gisbrecht v. Barnhart*, 535 U.S. 789, 808–09 (2002)).
26 The court must then test the requested fee for reasonableness. *Id.* (citing *Gisbrecht*, 535 U.S. at

1 808). Courts have broad discretion to decide if a fee request is reasonable or to adjust a fee
2 downward if the request is unreasonable. *See Gisbrecht*, 535 U.S. at 808.

3 Here, the request of Plaintiff's attorney is appropriate under § 406(b). Plaintiff is entitled
4 to past-due benefits totaling \$43,920.00. (Dkt. No. 21-5 at 3.) Plaintiff's attorney has requested
5 an award of \$4,980.00 in attorney fees. (Dkt. No. 19 at 1.) This figure is significantly lower than
6 the statutory cap and the 25 percent that Plaintiff agreed to pay her attorney. (*See* Dkt. No. 28 at
7 1.) In addition, the figure is reasonable in light of the effective and efficient representation that
8 Plaintiff's attorney provided in this case. Accordingly, the Court AWARDS Plaintiff's attorney
9 an attorney fee of \$4,980.00 pursuant to 42 U.S.C. § 406(b). Defendant is DIRECTED to send a
10 fee of \$4,980.00 to Plaintiff's attorney, minus any applicable processing fees as allowed by
11 statute. On receipt of payment of the fee, Plaintiff's attorney is directed to refund to Plaintiff any
12 amount of fees that Plaintiff's attorney received under the Equal Access to Justice Act, 28 U.S.C.
13 § 2412.

14 DATED this 18th day of December 2019.

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18 John C. Coughenour
19 UNITED STATES DISTRICT JUDGE
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